

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

WP(C).No. 29687 of 2015 (I)

PETITIONER :

**A. SAYUDEEN, AGED 67 YEARS,
S/O. ALIKUNJU, PUTHENVEEDU, MUTTAKAVU CHERRY,
NEDUMPANA VILLAGE, KOLLAM DISTRICT.**

BY ADV. SRI.B.MOHANLAL

RESPONDENTS :

- 1. THE DISTRICT COLLECTOR,
COLLECTORATE, CUTCHERY P.O., KOLLAM-691 013.**
- 2. THE REVENUE DIVISIONAL OFFICER,
COLLECTORATE, CUTCHERY P.O., KOLLAM-691 013.**
- 3. THE ADDITIONAL TAHASILDAR,
TALUK OFFICE, KOLLAM-691 001.**
- 4. THE VILLAGE OFFICER,
NEDUMPANA VILLAGE, NEDUMPANA.P.O., KOLLAM.**
- 5. THE CHIEF TOWN PLANNER,
LOCAL SELF GOVERNMENT DEPARTMENT, MUSEUM
THIRUVANANTHAPURAM-33.**
- 6. THE DISTRICT TOWN PLANNER,
DISTRICT PLANNING UNIT, KOLLAM-691 001.**
- 7. THE NEDUMPANA GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY, NEDUMPANA P.O., KOLLAM.**
- 8. THE LOCAL LEVEL MONITORING COMMITTEE
REPRESENTED BY THE CONVENER, NEDUMPANA.P.O.,
KOLLAM.(THE AGRICULTURAL OFFICER
AGRICULTURE DEPARTMENT NEDUMPANA, NEDUMPANA.P.O.
KOLLAM).**
- 9. THE PRINCIPAL AGRICULTURAL OFFICER
AGRICULTURE DEPARTMENT, COLLECTORATE, CUTCHERY.P.O.
KOLLAM-691 013.**

BY GOVERNMENT PLEADER SRI.C.K. SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: THE TRUE COPY OF THE TAX RECEIPT DATED 25.05.2015 ISSUED BY THE VILLAGE OFFICER, NEDUMPANA TO THE PETITIONER FOR THE YEAR 2015-2016.
- P2: THE TRUE COPY OF THE NO OBJECTION CERTIFICATE NO.A2/7244/2012 DATED 05.06.2013 ISSUED BY THE 7TH RESPONDENT TO THE PETITIONER.
- P3: THE TRUE COPY OF THE CONSENT NO.PCB/KO/NOC/34/2013 DATED 21.06.2013 ISSUED BY THE POLLUTION CONTROL BOARD TO THE PETITIONER.
- P4: THE TRUE COPY OF THE NO OBJECTION CERTIFICATE NO.B-1024/13 DATED 20.9.2013 ISSUED BY THE INSPECTOR OF FACTORIES AND BOILERS, KOLLAM TO THE PETITIONER.
- P5: THE TRUE COPY OF THE ORDER NO.A2/2931/2013 DATED 05.07.2013 ISSUED BY THE ASSISTANT DIVISIONAL OFFICER, FIRE AND RESCUE SERVICES, KOLLAM TO THE PETITIONER.
- P6: THE TRUE COPY OF THE ORDER NO.C2-2410/13/GMO ISSUED BY THE DISTRICT MEDICAL OFFICER HEALTH, KOLLAM TO THE PETITIONER.
- P7: THE TRUE COPY OF THE APPLICATION DATED 20.09.2013 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- P8: THE TRUE COPY OF THE ORDER NO.A-15160/2013 DATED 02.12.2013 ISSUED BY THE 2ND RESPONDENT.
- P9: THE TRUE COPY OF THE CERTIFICATE NO.94/2014 DATED 06.03.2014 ISSUED BY THE 4TH RESPONDENT.
- P10: THE TRUE PHOTOGRAPH OF THE GROUND REALITIES OF THE PROPERTY.
- P11: THE TRUE COPY OF THE REPORT SUBMITTED BY THE 8TH RESPONDENT AGRICULTURAL OFFICER, KRISHI BHAVAN, NEDUMPANA OF THE 7TH RESPONDENT.
- P12: THE TRUE COPY OF THE APPLICATION DATED 13.02.2015 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- P13: THE TRUE COPY OF THE ORDER NO.L10-25568/10 DATED 16.02.2015 ISSUED BY THE 1ST RESPONDENT
- P14: THE TRUE COPY OF THE COMMUNICATION NO.A2-4156/12 DATED 22.02.2015 ISSUED BY THE 7TH RESPONDENT TO THE 5TH RESPONDENT.
- P15: THE TRUE COPY OF THE ACKNOWLEDGMENT DATED 06.03.2015 ISSUED BY THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, KOLLAM.
- P16: THE TRUE COPY OF THE REPORT NO.33/15 DATED 29.03.2015 SUBMITTED BY THE 4TH RESPONDENT TO THE 8TH RESPONDENT.

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- P17: THE TRUE COPY OF THE COMMUNICATION NO.C-408/2005/K.DIS. DATED 20.03.2015 ISSUED BY THE 6TH RESPONDENT TO THE 5TH RESPONDENT.
- P18: THE TRUE COPY OF THE MINUTES OF THE LOCAL LEVEL MONITORING COMMITTEE.
- P19: THE TRUE COPY OF THE ORDER NO.C3/2912/2015/K.DIS. DATED 15.06.2015 ISSUED BY THE 5TH RESPONDENT TO THE 7TH RESPONDENT.
- P20: THE TRUE COPY OF THE COMMUNICATION NO.C1-4116/2015 DATED 19.06.2015 ISSUED BY THE 3RD RESPONDENT TO THE 1ST RESPONDENT.
- P21: THE TRUE COPY OF THE ORDER NO.L10.9062/15 DATED 26.06.2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
- P22: THE TRUE COPY OF THE APPLICATION DATED 04.07.2015 SUBMITTED BY THE PETITIONER BEFORE THE 8TH RESPONDENT.
- P23: THE TRUE COPY OF THE ORDER NO.TB(5)7689/15 DATED 18.08.2015 ISSUED BY THE 8TH RESPONDENT TO THE PETITIONER.
- P24: THE TRUE COPY OF THE JUDGMENT IN W.P[C]NO.16597/2015 DATED 06.07.2015 OF THIS HON'BLE COURT.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

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Dated this the 30th day of September, 2015

J U D G M E N T

The petitioner claims to be the owner and in possession of landed property in Sy.Nos.92/63,92/7-9 of Nedumpana Village.

2. The petitioner's property has been classified as 'nilam' in the draft data bank. Petitioner, thereafter, approached the Local Level Monitoring Committee. The Committee, after inspection, found that this land has to be reclassified and report the matter before the District Collector. It is noted in the proceedings that this is a converted land before Act 28 of 2008.

3. Petitioner appears to have moved the local authority for seeking construction permit. The Local Authority appears to have reported the matter before the Chief Town Planning Officer. The Town Planning Officer as per Ext.P19 noted that the petitioner requires permission under the Kerala Land Utilisation Order, besides

certain other conditions.

4. The petitioner approached this Court seeking a direction to delete the entry from the draft data Bank and seeking other reliefs to permit him to put up construction in the land.

5. As seen from the report of the Local Level Monitoring Committee, it can be concluded that the land cannot be classified as 'nilam' under Act 28 of 2008. Therefore, there shall be a direction to all revenue officials to take note of the above fact and make necessary entry about the petitioner's land that this is a converted land. However, for utilisation of land for other purposes, the petitioner requires permission under Clause 6 of the Kerala Land Utilisation Order. The petitioner therefore shall approach the first respondent/the District Collector. This shall be done within a period of two months from the date of receipt of a copy of this judgment. Considering the nature of land and other reports of Additional Tahsildar and Village Officer, the land in question cannot be utilised for any other agricultural purposes.

Therefore, there will not be any impediment in law in granting permission to put up a building in the land in question. Necessary orders shall be passed by the District Collector, after advertizing to the report within a period of one month from the date of receipt of a copy of this judgment.

This writ petition is disposed of as above.

sd/-

A.MUHAMED MUSTAQUE,
Judge

MBS/

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